

**Notice of Allowability**

Application No.

10/773,479

Examiner

William L. Bangachon

Applicant(s)

MULLET ET AL.

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 8/23/2006.
2. ☒ The allowed claim(s) is/are 1-9, 24-36 and 49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892) ✓
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see Remarks, filed 8/23/2006, with respect to claims 1, 9 and 27 have been fully considered and are persuasive. The rejection of claims 1, 9 and 27 has been withdrawn.

### ***Election/Restrictions***

2. This application is in condition for allowance except for the presence of claims 12-22 and 37-43 directed to inventions non-elected without traverse in the reply filed on 1/27/2006. Accordingly, claims 12-22, 37-43 and 44-48 have been cancelled.

## **EXAMINER'S AMENDMENT**

3. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment (specifically claims 9 and 10) was given in a telephone interview with Mr. Andrew Morton on September 25, 2006.

The application has been amended as follows:

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PLEASE CANCEL CLAIMS 10, 12-22, 37-43 AND 44-48, AND AMEND CLAIM 9  
AS FOLLOWS:

9. An operator system for moving a barrier comprising:
  - a motor for moving the barrier between opened and closed positions;
  - an operator for controlling operation of said motor;
  - a wall station having a wall station transmitter for sending operational signals to said operator;
  - an open/close switch carried by said wall station for actuating said motor to move the barrier in the appropriate direction;
  - at least one other switch carried by said wall station, which generates some type of operational signal for receipt by said operator;
  - a panel carrying said open/close switch and said at least one other switch;
  - and
  - a cover positionable with respect to said panel, wherein said cover in a first position permits access to said switches and in a second position conceals each of said switches while allowing activation of only said open/close switch concealed by said cover by movement of said cover;
  - wherein said at least one other switch comprises:
    - an auto-close/blocking selector switch, wherein if said selector switch is in an auto-close mode, said operator automatically closes the barrier if left open for a predetermined period of time, and wherein if said selector switch is in a blocking

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mode, said operator is precluded from receiving operational signals from any source other than said wall station.

***Specification***

4. The new title of the invention was received on 8/23/2006. The new title is acceptable and therefore the objection to the title is withdrawn.

***Claim Rejections - 35 USC § 103***

5. The rejection of claims 1 and 8 under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {hereinafter "Rhodes et al"} in view of USP 5,027,553 {hereinafter "Vergara"} is withdrawn.

6. The rejection of claims 2-4 under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {Rhodes et al} and USP 5,027,553 {Vergara}, and further in view of USP 5,388,691 {hereinafter "White"} is withdrawn.

7. The rejection of claims 5-7 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {Rhodes et al} and USP 5,027,553 {Vergara}, and further in view of USP 5,576,701 {hereinafter "Heitschell et al"} is withdrawn.

8. The rejection of claim 9 under 35 U.S.C. 102(b) as being anticipated by USP 5,576,701 {Heitschell et al} is withdrawn.

9. The rejection of claims 11 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,576,701 {Heitschell et al} and USP 6,437,527 {Rhodes et al}, and further in view of USP 5,388,691 {hereinafter "White"} is withdrawn.

10. The rejection of claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {Rhodes et al} and USP 5,027,553 {Vergara}, and further in view of USP 5,576,701 {Heitschell et al} is withdrawn.

11. The rejection of claims 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {Rhodes et al} and USP 5,027,553 {Vergara}, and USP 5,576,701 {Heitschell et al}, and further in view of USP 4,821,024 {Bayha} is withdrawn.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 6,121,889 (Janda et al) is cited because it teaches of a wall station having "event on/off switch" shown as 38B in Figure 3 and other operational switches 38X. It also has a cover that when open, allows access to all the switches and when closed, conceals each of the switches while allowing activation of the on/off switch by movement of the cover (col. 4 and 5).

***Allowable Subject Matter***

13. Claims 1-9, 24-36 and 49 are allowed. Claims are renumbered 1-23.
14. The following is an Examiner's statement of reasons for allowance:

In claim 1, the prior art made of record do not disclose an operator system for moving a barrier comprising: in combination with other elements in the claim, an open/close switch for directly actuating said motor to move the barrier between opened and closed positions, said open/close switch carried by said wall station and a manual-close/auto-close selector switch carried by said wall station, wherein if an auto-close mode is selected from said selector switch, said operator automatically closes the barrier if left open for a predetermined period of time and moves the barrier upon actuation of the open/close switch, and wherein if a manual-close mode is selected from said selector switch, said operator moves the barrier upon actuation of said open/close switch. Claims 2-8 and 49 are dependent on claim 1 and therefore allowable for the same reason.

Claim 9 recites the limitations of claim 1, further comprising a panel carrying said open/close switch and said at least one other switch; and a cover positionable with respect to said panel, wherein said cover in a first position permits access to said switches and in a second position conceals each of said switches while allowing activation of only said open/close switch concealed by said cover by movement of said cover. Claims 24-26 are dependent on claim 9 and therefore allowable for the same reasons.

Claim 27 recites the limitations of claim 1, wherein if a block mode is selected, said operator is precluded from receiving operational signals from any source other than said wall station transmitter. Claims 28-36 are dependent on claim 27 and therefore allowable for the same reason.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Office Contact Information***

15. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to William L. Bangachon whose telephone number is (571)-272-3065. The Examiner can normally be reached on Monday – Thursday, 8:30 AM – 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy Garber can be reached on (571)-272-7308. The fax phone numbers for the organization where this application or proceeding is assigned is 5(571) 273-830000 for regular and After Final formal communications. The Examiner's fax number is (571)-273-3065 for informal communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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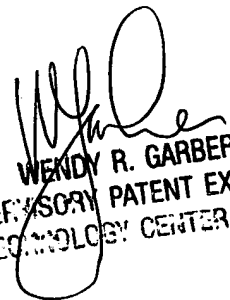
Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-6071.



William L Bangachon  
Examiner  
Art Unit 2612

September 25, 2006



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